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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,233	01/02/2004	Sean William Tucker	10017979-2	1119

7590

11/03/2005

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,233

Applicant(s)

TUCKER, SEAN WILLIAM

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07/15/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because of the following.

Line 1 recites "The present invention is directed to a fastening system comprising". It should recite --A fastening system comprises--.

Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims 6-8 are objected to because of the following informalities:

Claim 6 (line 4) recites "comprises fasteners". It should recite --comprises a fastener--.

Claim 6 (line 5) recites "wherein the first legs". It should recite --wherein the second legs--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishikura et al. (US 5,558,405).

As to claim 1, Ishikura et al. disclose a fastening system comprising:

a first mount bracket **11,2,3** (mounted on first assembly **4**) rotatably attached to a first assembly **4**;

a second mount bracket **12,33** (mounted on second assembly **4**) rotatably attached to a second assembly **4**, the second assembly not including any elements of the first assembly; and

a perpendicular rigid attachment **32** joining the first mount bracket with the second mount bracket wherein the attachment enables the first mount bracket and the second mount bracket to rotate together about a common axis (bolts **51**) and wherein the attachment enables a portion of the first mount bracket and a portion of the second mount bracket to be separated by space (Figures 1-6).

As to claim 2, Ishikura et al. disclose a system wherein the first mount bracket **11,2,3** is attached to the first assembly **4** with an assembly screw **51** and an insert **5** (Figure 3).

As to claim 3, Ishikura et al. disclose a system wherein the insert **5** is a threaded insert and the assembly screw **51** screws into the threaded insert (Figure 3).

As to claim 4, Ishikura et al. disclose a system wherein the rigid attachment **32** between the first and second mount brackets comprises a machine screw **32** (Figure 4).

As to claim 5, Ishikura et al. disclose a system wherein the first mount bracket **11,2,3** comprises an ear **2,3** for manual grasping and positioning of the fastening system (Figure 2).

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5. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter (US 5,797,412).

As to claim 1, Carter discloses a fastening system comprising:

a first mount bracket **54,130** (Figure 16) rotatably attached to a first assembly **22** (Figure 13);

a second mount bracket **54,130** rotatably attached to a second assembly **22**, the second assembly not including any elements of the first assembly; and

a perpendicular rigid attachment **136** (formed of a rigid material) joining the first mount bracket with the second mount bracket wherein the attachment enables the first mount bracket and the second mount bracket to rotate together (relative to one another) about a common axis (bolt **136**) and wherein the attachment enables a portion of the first mount bracket and a portion of the second mount bracket to be separated by space (Figures 13, 14 and 16).

As to claim 2, Carter discloses a system wherein the first mount bracket **54,130** is attached to the first assembly **22** with an assembly screw **67** and an insert **70** (Figure 6).

As to claim 3, Carter discloses a system wherein the insert **70** is a threaded insert and the assembly screw **67** screws into the threaded insert (Figure 6).

As to claim 4, Carter discloses a system wherein the rigid attachment **136** between the first and second mount brackets comprises a machine screw **136** (Figure 16).

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As to claim 5, Carter discloses a system wherein the first mount bracket **54,130** comprises an ear **54** for manual grasping and positioning of the fastening system (Figure 13).

As to claim 6, Carter discloses a system wherein the first and second mount brackets each comprise:

a L-bracket **130**, each of the L-brackets (having a L-shaped section extending from link **54**) having a first leg **128** and a second leg **122,54** and the rigid attachment **136** comprises a fastener **136** for removable joining together the first legs of the L-brackets, wherein the second legs of the L-brackets are separated by the space (Figure 16).

As to claim 7, Carter discloses a system comprising:

rotatable fasteners **67** for rotatably fastening the second leg **122,54** of one of the L-brackets to a structure **22** and for rotatably fastening the second leg **122,54** of the other L-bracket to a support **22** (Figure 6).

As to claim 8, Carter discloses a system wherein the second leg **122,54** of the L-bracket rotatably fastened to the structure **22** comprises an ear **54** for manual positioning of the fastening system (Figure 13).

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,672,787.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the application encompass the limitations of the patent. The limitations of claims 1-8 of the application are obviously met by claims 1-5 of the patent because it is obvious that the "first and second mount brackets" and the "perpendicular rigid attachment" of instant claim 1 is encompassed by the "first and second mount bracket" and the "rigid attachment" of patent claim 1, and that the "first and second perpendicular arm portions" of the patent claim 1 constitute the "L-brackets" of instant claim 6.

Response to Arguments

8. Applicant's arguments filed August 29, 2005 have been fully considered but they are not persuasive.

As to claim 1, Attorney argues that:

Ishikura et al. do not disclose a fastening system comprising a *first mount bracket*; and a *second mount bracket*.

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Examiner disagrees. As to claim 1, Ishikura et al. disclose a fastening system comprising a first mount bracket **11,2,3** (mounted on a first assembly **4**); and a second mount bracket **12,33** (mounted on a second assembly **4**; Figures 1-6).

As to claim 1, Attorney argues that:

Carter does not disclose a fastening system comprising *a perpendicular rigid attachment joining the first mount bracket with the second mount bracket wherein the attachment enables the first mount bracket and the second mount bracket to rotate together about a common axis.*

Examiner disagrees. As to claim 1, Carter discloses a fastening system comprising a perpendicular rigid attachment **136** (formed of a rigid material) joining the first mount bracket **54,130** (Figure 16) with the second mount bracket **54,130** wherein the attachment enables the first mount bracket and the second mount bracket to rotate together (relative to one another) about a common axis (bolt **136**; Figures 13, 14 and 16).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MPF
10/28/05



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